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No. 94-130

In the
Supreme Court of the United States
October Term, 1994

IN RE THE CUSTODY OF: T.B.

JOAN BACON,

Petitioner,

v.

EILEEN WILSON,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE MINNESOTA COURT OF APPEALS

RESPONDENTS' JOINT BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

1. Under the PKPA, must a State accord full faith and credit to an *ex parte* temporary custody order issued by another State when the person with physical custody of the subject child was not provided with notice of, or an opportunity to be heard at, the temporary custody hearing?

2. Under the PKPA, when one State has "home State" jurisdiction may another State exercise "emergency" jurisdiction over the custody dispute based on the child's assertions, as stated by the child's attorney, that the child has been physically abused in the past and was recently threatened with further mistreatment or abuse?

PARTIES TO THE PROCEEDING

This proceeding involves an interstate custody dispute. While Petitioner identifies the caption for this case as "*Joan Bacon v. Eileen Wilson*," the Minnesota Court of Appeals ruled that the proper caption for this matter is "*In Re the Custody of: T.B.*" *See* Order of the Court of Appeals of the State of Minnesota in *In Re the Custody of: T.B.*, No. C7-93-2263 (Minn. Ct. App. Nov. 30, 1993), reprinted in Appendix to Petition for Writ of Certiorari [hereinafter "PA"] at 20a.

The Minnesota District Court appointed a Public Defender to represent T.B., the child who is the subject of this custody dispute, thus making the child a party to the proceeding. *See* Order of the District Court for the First Judicial District of the State of Minnesota in *In Re the Matter of the Welfare of: Talassa Bacon-Williams*, (Minn. Dist. Ct. Aug. 19, 1993), PA at 14a. Thus, the parties to the instant proceeding are the child [hereinafter "T.B."], the child's mother [hereinafter "Petitioner Bacon"], and the child's maternal grandmother [hereinafter "Respondent Wilson"].

While Respondent Wilson was represented by counsel throughout the proceedings below, she can no longer financially afford counsel and, therefore, is proceeding in this matter *pro se*. Respondent Wilson joins in this Brief in Opposition. Respondent Wilson respectfully requests that all future notices regarding this proceeding be addressed directly to her as follows:

Ms. Eileen Wilson
78 East Isabel Avenue
St. Paul, Minnesota 55107.

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No. 94-130

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JOAN BACON,

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v.

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ON PETITION FOR A WRIT OF CERTIORARI
TO THE MINNESOTA COURT OF APPEALS

RESPONDENTS' JOINT BRIEF IN OPPOSITION

TO THE HONORABLE SUPREME COURT:

Respondents, EILEEN WILSON and T.B., respectfully request that the Court deny Petitioner JOAN BACON'S Petition for Writ of Certiorari seeking review of the decision of the Minnesota Court of Appeals in this case. The Petition should be denied because the decision of the Minnesota Court of Appeals is consistent with the opinions of this Court and the decisions of other State courts of last resort.

OPINIONS BELOW

On February 22, 1994, the Minnesota Court of Appeals filed its decision affirming the trial court's dismissal of Petitioner's motion to dismiss for lack of jurisdiction. The Minnesota Supreme Court summarily denied Petitioner's Petition for Further Review on April 19, 1994. Neither courts' opinion is published. Both opinions are reproduced in the Appendix to the Petition for Writ of Certiorari at 1a-5a and 22a, respectively.

JURISDICTION

Petitioner has invoked the jurisdiction of the United States Supreme Court under 28 U.S.C. § 1257.

STATUTORY PROVISION INVOLVED

Parental Kidnapping Prevention Act of 1980, Pub. L. No. 96-611, 94 Stat. 3566, *codified at* 28 U.S.C. § 1738A.

STATEMENT OF THE CASE

A. Factual Background.

T.B., the young woman at center of this custody dispute, was born November 24, 1978, and is nearly sixteen years of age. *See* Order of the Minnesota District Court dated Nov. 1, 1993, *filed in In Re the Custody of: Talassa Bacon-Williams* [hereinafter "Order of Nov. 1, 1993"], reprinted in Appendix to Petition for Writ of Certiorari [hereinafter "PA"] at 6a-12a. Petitioner, Joan Bacon, is T.B.'s mother and is a resident of the State of New York. Respondent, Eileen Wilson, is T.B.'s maternal grandmother and is a resident of the State of Minnesota. Although T.B. has resided with her mother in New York for seven years of her life, she has resided with her grandmother in

Minnesota for the majority of her life – nearly nine years. *Id.* at 6a-7a. T.B. most recently resided in New York from mid-1990 to July 18, 1993. *Id.* at 7a. T.B. has resided in Minnesota since July 18, 1993.

During the most recent period of time in which T.B. resided in New York, she was subjected to and threatened with physical abuse by Thomas Williams, Petitioner's live-in companion.[1] Transcript of Proceeding of Aug. 18, 1993 [hereinafter "Tr. of Aug. 18, 1993"], reprinted in Appendix to Respondents' Joint Brief in Opposition [hereinafter "RA"] at 4a-5a. Petitioner admits that in 1991 she took T.B. to the hospital because of Mr. William's physical abuse. *Id.* at 11a-12a. As required under New York law, the hospital reported the suspected child abuse to the Department of Social Services. *Id.* at 12a. However, because T.B. partially recanted her story and told the social worker that she believed she may have been responsible for the abuse inflicted upon her by Mr. Williams (*Id.* at 5a, 11a), as is common with victims of abuse, that incident of physical abuse was not substantiated by the Department of Social Services. Letter from

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[1] Petitioner and Mr. Williams, whom Petitioner refers to as her "fiancee," are not married. Affidavit of Joan Bacon [hereinafter "Bacon Aff."], PA at 28a. Mr. Williams has resided with Petitioner for the past nine years, despite the fact that he is married to another woman (*Id.*) and has a fifteen-year old daughter from that marriage. *Id.* at 30a. While Petitioner alleges that Mr. Williams is T.B.'s biological father (*Id.* at 28a), Mr. Williams is not identified as T.B.'s father on her *original* birth certificate. Tr. of Aug. 18, 1993, RA at 8a-9a. Nor does his name appear as T.B.'s father on her *original* passport. *Id.* at 10a. Mr. Williams has not intervened as a party to the Minnesota custody proceeding, and is not identified as a party on any of the documents filed in New York. *See* New York Petition for Custody and New York Order Directing Temporary Custody, PA at 39a, 42a, 45a, 49a, 51a. Further, despite Petitioner's allegation that Mr. Williams has been adjudicated as T.B.'s biological father (Petition for Writ of Certiorari [hereinafter "Petition"] at p. 3, FN2), T.B., who has resided in Minnesota since July 18, 1993, has never provided a blood sample for analysis in any paternity or other proceeding in New York or elsewhere.

Sanford R. Berman, New York State Department of Social Services, to Thomas J. Williams, (Mar. 11, 1992), PA at 47a-48a.

More significant to this case is T.B.'s assertion that, approximately three weeks before coming to Minnesota to visit her grandmother, she was threatened by Mr. Williams with further mistreatment. Tr. of Aug. 18, 1993, RA at 5a, 8a. *See also* Order of the Minnesota District Court dated Aug. 19, 1993, *filed in In Re the Matter of the Welfare of: Talassa Bacon-Williams* [hereinafter "Order of Aug. 19, 1993"], PA at 14a-15a; Order of Nov. 1, 1993, PA at 7a, 11a; and, Order of the Minnesota Court of Appeals *filed in In Re the Custody of: T.B.*, (No. C7-93-2263) (Minn. Ct. App. Feb. 22, 1994) [hereinafter "Ct. App. Order"], PA at 2a, 3a. At no time during the hearing on August 18th did Petitioner or Mr. Williams ever specifically deny T.B.'s allegation that she had recently been threatened. Furthermore, no where in her Petition for Writ of Certiorari does Petitioner deny T.B.'s allegation.

On July 18, 1993, Petitioner sent T.B. and three of her siblings to Minnesota for an extended summer vacation. Bacon Aff., PA at 33a. There are conflicting statements about whether the children were to stay with their aunt or with their grandmother while in Minnesota. *See* Petition at p. 3; Tr. of Aug. 18, 1993, RA at 2a. Despite these conflicting statements, Petitioner admits that she knew the children were staying at their grandmother's home because their aunt had a friend, Lisa, staying with her at the time. Bacon Aff., PA at 34a. At that time, Petitioner never objected to the children staying with their grandmother. *Id.* It is undisputed that Respondent Wilson has had physical custody of T.B. since July 18, 1993.

While in Minnesota, T.B. informed her grandmother that she did not wish to return to New York, in part because she was afraid of the physical abuse she suffered at the hands of Mr. Williams. Tr. of Aug. 18, 1993, RA at 4a. On August 4, 1993, the date T.B. was scheduled to return to New York, T.B. telephoned Petitioner to inform her that she would not be

returning with the rest of her siblings. *Id.* at 10a. Petitioner, however, was not at home to receive T.B.'s message. *Id.* T.B. did not return to New York on August 4, 1993, along with the rest of her siblings. When T.B. did not return to New York, Petitioner and Mr. Williams drove to Minnesota to retrieve her, arriving on August 6, 1993. Bacon Aff., PA at 34a.

Petitioner's allegation that T.B. was some how secreted away from her on the advise of Respondent Wilson's attorney (Petition at p. 4) is patently denied. Tr. of Aug. 18, 1993, RA at 6a-7a. Contrary to these allegations, Petitioner admits that she knew exactly where T.B. was located in Minnesota and also admits that she had an opportunity to regain custody of her, but declined to do so. Bacon Aff., PA at 35a. T.B. was fully aware that her mother was in Minnesota, but she informed her grandmother that she did not wish to see or speak with her mother for fear that she would be forced to return to New York. Tr. of Aug. 18, 1993, RA at 11a. Unlike a child who has been "kidnapped," T.B. was not restricted from contacting her mother. Rather, T.B. could have contacted her mother at any time, had she desired to do so. On August 12, 1993, Petitioner returned to New York without T.B.

B. Procedural Background.

1. New York's *Ex Parte* Temporary Custody Order.

It is undisputed that prior to August 13, 1993, no custody proceeding had been commenced in either Minnesota or New York, and neither State had issued a custody order regarding T.B. Petition at pp. 3, 4. On August 13, 1993, Petitioner filed in New York a Petition for Custody of T.B. New York Petition for Custody, PA at 39a-41a. On that same date, Petitioner obtained an *ex parte* Temporary Custody Order from the New York court awarding her temporary custody of T.B. Order Directing

Temporary Custody, Family Court of the State of New York, County of Kings, in *Bacon v. Williams*, No. 14795/93 (N.Y. Fam. Ct. Aug. 13, 1993) [hereinafter "New York *ex parte* Temp. Custody Order"], PA at 45a-46a. The New York court scheduled a hearing for August 25, 1993. *Id.* at 46a.

The New York *ex parte* Temporary Custody Order[2] indicates that Respondent Wilson appeared at the temporary hearing in New York on August 13th. *Id.* at 45a. However, contrary to the appearances identified in that Order, Petitioner admits that Respondent Wilson was not aware of and did not appear at that hearing. Tr. of Aug. 18, 1993, RA at 5a. Thus, it is undisputed that Respondent, who then had physical custody of T.B., was neither given notice of nor an opportunity to be heard at the August 13th hearing in respect to the issuance of the New York Custody Order.

Respondent's *attorney* was given a copy of the New York Petition for Custody and the New York *ex parte* Temporary Custody Order on August 16, 1993, three days ***after*** the hearing was held and the Order was issued. *Id. at 5a-6a;* Aff. of Pers. Serv. of New York *ex parte* Temporary Custody Order, PA at 44a. However, to this date, *Respondent has **never** been **personally served** with either the New York Petition for Custody or the New York* ex parte *Temporary Custody Order.*

Throughout her Petition, Petitioner continuously refers to the custody hearing that was scheduled in New York on August 25, 1993. *See, e.g.,* Petition at pp. 4, 5-6, 9, 20. Respondent acknowledges that she received actual notice of that custody hearing. However, *the August 25th hearing is **not** the hearing that is at the center of the decision of the Minnesota Court of Appeals.* Rather, the hearing that Respondent should have

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[2] The Temporary Custody Order issued by the New York Family Court is a "form" order utilized by that court, as evidenced by the identicalness of the various Orders issued by that court. *See* PA at 45a-46a, 49a-50a, 51a-52a.

received notice of, but never did, was the August 13th custody hearing.

2. Minnesota's Assumption of Jurisdiction.

On August 16, 1993, Petitioner and Mr. Williams came to Minnesota in an attempt to enforce the New York Custody Order through local law enforcement authorities, who declined to enforce the Order. Bacon Aff., PA at 34a. On August 17, 1993, the Minnesota District Court received an *ex parte* telephone contact from Mr. Williams alleging that T.B.'s maternal grandmother had failed to return T.B. to her home in New York following her summer vacation in Minnesota. Tr. of Aug. 18, 1993, RA at 2a. Based upon this *ex parte* contact, the Minnesota District Court *sua sponte* issued an Order finding that T.B. was "in need of immediate protection or services."[3] Order of the Minnesota District Court *filed in In Re the Matter of the Welfare of: Talassa Bacon-Williams*, (Minn. Dist. Ct. Aug. 17, 1993), [hereinafter "Order of Aug. 17, 1993"], RA at 17a. The trial court awarded temporary custody of T.B. to the Dakota County, Minnesota, Community Services Department for placement in foster care and set the matter on for hearing the next day. *Id.*

On August 18, 1993, Petitioner, Respondent, and T.B., along with personnel from the County Attorney's office and the County Social Services office, appeared before Judge Thuet. Tr. of Aug. 18, 1993, RA at 1a. The Court appointed a Public Defender to represent T.B. Order of Aug. 19, 1993, PA at 14a. As Petitioner correctly states, "Petitioner and Mr. Williams

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[3] Based upon the caption and wording of this Order, it appears that the trial court considered it to be a Child in Need of Protection or Services ["CHIPS"] matter, pursuant to Minnesota Statutes section 260.01, *et. seq.* This explains the original caption for this matter, *In Re the Matter of the Welfare of: Talassa Bacon-Williams*, and also explains the trial court's *sua sponte* finding that the child was in "immediate need of protection or services." Minn. Dist. Ct. Order of Aug. 17, 1993, RA at 17a.

addressed the court extensively" at the hearing on August 18th. Petition at p. 5. Counsel for Respondent Wilson and T.B. also addressed the court. While counsel for T.B. and Respondent Wilson urged the court to speak *in camera* with the child, the court declined to do so. Tr. of Aug. 18, 1993, RA at 10a. Instead, the court indicated that T.B.'s attorney could speak for her. *Id.* at 12a. Further, the court stated:

> I suspect that what you folks are telling me is what Talassa is going to tell me, too. I will accept that what you say is true, that she doesn't want to go back to New York and she wants to stay here in the State of Minnesota, and that she is afraid of Thomas Williams.

Id. 10a. Judge Thuet also accepted as true the statements made by Petitioner and Mr. Williams. *Id.* at 3a.

The court recessed the hearing for approximately one and one-half hours in an attempt to allow the parties to resolve the matter amongst themselves. *Id.* at 12a. The parties were unable to reach an agreement, and counsel for T.B. so informed the court. *Id.* The court concluded the hearing by indicating that he needed time to "digest" all of the information he had been provided, and to properly research the issues presented. *Id.* at 12a. Specifically, the court stated:

> But, there is obviously some ties between Talassa and her grandmother here in view of the fact that her grandmother raised her for a number of years, and there are some ties between Talassa and her aunt here and her cousin who is here. You know, there is valid reasons, you know, for both sides I guess. . . . I guess I need time to digest all of this and do a little research on the law. So far I have been

> doing this kind of on my own motion in the effort to save everybody some money and grief. I haven't properly researched the law and I guess I need some time so I would like to do this. I will issue a decision and I would hope to have that decision out, I am going to say by noon tomorrow.

Id. at 12a-13a.

On August 19, 1993, Judge Thuet issued an Order finding that Minnesota could properly exercise emergency jurisdiction over the custody dispute, reasoning that "[t]he Child has alleged that she has been physically abused by Mr. Williams and that Mr. Williams has threatened further physical abuse upon her unless 'she shapes up.'" Order of Aug. 19, 1993, PA at 14a-15a. The court also found that "[b]ecause physical abuse has been exhibited in the past, the court believes that the Child's fear of future physical abuse is legitimate." *Id.* at 15a. Further, the court held that Minnesota need not accord full faith and credit to the New York *ex parte* Temporary Custody Order as it was not made consistently with the provisions of the PKPA:

> The Court appreciates that a Court Order was issued by the New York Family Court on August 13, 1993, awarding custody to the Child's mother. However, this Order was obtained *Ex Parte* and neither the child nor Eileen Wilson were notified of the hearing or able to attend. *This is not the type of Order to which the statutes [PKPA] contemplate giving "full faith and credit."*

Id. (emphasis added).

The Order permitted Respondent Wilson's counsel to serve and file a Petition for Custody of T.B. on or before August 20,

1993, and, in the interim, awarded temporary custody of T.B. to Respondent. *Id.* at 13a-14a. On August 19, 1993, Petitioner was personally served with the Notice of Entry of the Order, which Petitioner has never appealed. Notice of Entry of Order, RA at 18a. On that same date, Petitioner was also served with Respondent Wilson's Summons and Petition for Custody. Petition for Custody of Talassa Bacon, *filed in In Re the Custody of: Talassa Bacon (Wilson v. Bacon)*, (Aug. 19, 1993), PA at 62a-66a.

Approximately two months later, Petitioner served upon Respondent and T.B. a Notice of Motion and Motion to Dismiss for Lack of Jurisdiction under the PKPA. Respondent Wilson filed a Responsive Motion arguing that the issue of jurisdiction was *res judicata*, in that it had already been decided by Judge Thuet. *See* Respondent's Responsive Motion at 1, and Memorandum in Opposition to Dismissal of the Petition at 6, (Oct. 25, 1993), *filed in In Re the Custody of: T.B.*, No. FX-93-9068 (Minn. Dist. Ct.). Respondent also argued that, even if the issue was not *res judicata*, the court could properly assume emergency jurisdiction under the PKPA. *Id.*

Petitioner's motion to dismiss came on for hearing before The Honorable Richard G. Spicer, Judge of Minnesota District Court, on November 1, 1993. Tr. of Nov. 1, 1993, RA at 14a. While the court discussed on the record whether the issue of jurisdiction was *res judicata* (*Id.* at 15a-16a), the court made no findings regarding that issue in its written Order. *See* Order of Nov. 1, 1993, PA at 6a-12a. Respondents argued at the hearing that Minnesota need not accord full faith and credit to the New York *ex parte* Temporary Custody Order on the grounds that it was not issued in compliance with the provisions of the PKPA in that Respondent Wilson was not provided notice of or an opportunity to be heard at the New York temporary custody hearing.

On November 1, 1993, the court filed its Order denying Petitioner's motion to dismiss for lack of jurisdiction. Order of

Nov. 1, 1993, PA at 6a-12a. Specifically, the court concluded that "Minnesota may properly exercise jurisdiction" over this custody dispute pursuant to the terms of the PKPA. *Id.* at 7a. The court also concluded that Minnesota had emergency jurisdiction, as well as best interests jurisdiction, over the custody dispute. *Id.* Like Judge Thuet, Judge Spicer also determined that the New York Temporary Custody Order was not issued consistently with the provisions of the PKPA and held that "*the Ex Parte Order issued in the State of New York without notice to Eileen Wilson, the grandmother, is not the type of Order to which the statutes contemplate giving 'full faith and credit.'*" *Id.* at 11a-12a (emphasis added).

3. Minnesota's Appellate Court Decisions.

Petitioner appealed the lower court's Order. On February 22, 1994, the Minnesota Court of Appeals filed its decision affirming the lower court's denial of Petitioner's motion to dismiss for lack of jurisdiction. Ct. App. Order, PA at 1a-5a. The court of appeals found that the lower court did not err in exercising "emergency" jurisdiction over the custody dispute, reasoning that "the allegation of a recent specific threat [of physical abuse] supports the claim of emergency jurisdiction." *Id.* at 3a. Similarly, the court of appeals found that the lower court did not err in exercising "best interest" jurisdiction over the matter,[4] reasoning that its decision was supported by "[t]he evidence of

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[4] The court of appeals found that Minnesota's exercise of "emergency" jurisdiction was appropriate under both the PKPA, 28 U.S.C. § 1738A(c)(2)(C)(ii), and the Uniform Child Custody Jurisdiction Act [hereinafter "UCCJA"], Minn. Stat. § 518A.03, subd. 1(c)(2). Ct. App. Order, PA at 3a. The court of appeals also found that Minnesota's exercise of "best interests" jurisdiction was appropriate under the UCCJA, Minn. Stat. § 518A.03, subd. 1(b), (*Id.* at 2a-3a), but recognized that such "best interest" jurisdiction was not appropriate under the PKPA when another State is the child's "home State." *Id.* at 3a.

the child's extensive contacts with Minnesota, and her presence here in her grandmother's care." *Id.* at 2a-3a.

In addition to affirming the lower court's exercise of jurisdiction, the Minnesota Court of Appeals also affirmed the lower court's determination that the "New York *ex parte* custody determination was not made consistently with . . . the PKPA because the grandmother was not given proper notice or a reasonable opportunity to be heard." *Id.* at 3a.

On April 19, 1994, the Minnesota Supreme Court summarily denied Petitioner's Petition For Further Review. Order of the Minnesota Supreme Court *filed in In Re the Custody of: T.B.*, No. C7-93-2263 (Minn. Apr. 19, 1994), PA at 22a.

SUMMARY OF THE ARGUMENT

I. This case presents no "special and important" issue appropriate for the Court's exercise of jurisdiction. It is a custody dispute involving a young woman who is nearly sixteen years of age, her mother, and her maternal grandmother.

II. This case presents no novel question of law. Rather, it merely sets forth Petitioner's refusal to acknowledge the findings of fact, made by the trial court in its broad discretion, regarding the issue of whether the child had been abused by Petitioner's live-in companion. Factual determinations regarding whether a child has been abused, and whether the evidence is sufficient enough to constitute an "emergency," are entirely within the broad discretion of the trial court and should not be reversed unless clearly erroneous.

III. The decision of the Minnesota Court of Appeals is consistent with the decisions of other State courts of last resort with respect to the same issue.

ARGUMENTS AND AUTHORITIES

I.

REASONS FOR DENIAL OF WRIT OF CERTIORARI

This case presents no "special and important" issues appropriate for the Court's exercise of its jurisdiction. U.S. Sup. Ct. R. 10.1. Rather, it is a custody dispute involving a young woman who is nearly sixteen years of age, the young woman's mother in New York (Petitioner), and the young woman's maternal grandmother in Minnesota (Respondent).

The decision of the Minnesota Court of Appeals, affirming the trial court's denial of Petitioner's motion to dismiss for lack of jurisdiction, does not conflict with the decision of another court of last resort on the same issue. *Id.* at 10.1(b). Further, the decision of the Minnesota Court of Appeals does not depart from the accepted and usual course of judicial proceedings, nor does it sanction such a departure by the trial court, as to call for an exercise of this Court's power of supervision. *Id.* at 10.1(a).

II.

FACTUAL DETERMINATIONS REGARDING WHETHER CHILD WAS ABUSED, AND WHETHER EVIDENCE WAS SUFFICIENT ENOUGH TO CONSTITUTE AN "EMERGENCY," ARE WITHIN TRIAL COURT'S BROAD DISCRETION

This case presents no novel question of law to be decided by this Court. Rather, it merely demonstrates Petitioner's refusal to acknowledge the findings of fact made by the trial court in its broad discretion. Petitioner refuses to acknowledge the trial court's findings regarding the child's allegations that she has been abused in the past, and was recently threatened with further

mistreatment, by Petitioner's live-in companion. Petitioner also refuses to acknowledge the trial court's findings that such conduct rises to the level of an emergency.

The question of whether certain conduct rises to the level of abuse so as to constitute an emergency is not a question of law but, rather, a question of fact to be decided by the trial court. *See Schoeberlein v. Rohlfing*, 383 N.W.2d 386, 388-89 (Minn. Ct. App. 1986) (issue of whether allegations of past abuse rise to the level of an emergency is question of fact for trial court to decide in its discretion). "Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses." Minn. R. Civ. P. 52.01. "Although a reviewing court may freely interpret the law without deference to the trial court, it is bound to accept the trial court's conclusions of law based on findings that are not clearly erroneous." *In Re the Estate of Hoffbeck*, 415 N.W.2d 447, 449 (Minn. Ct. App. 1987), *rev. denied*, Jan. 28, 1988.

In her Petition for Writ of Certiorari, as in her appeal to the Minnesota Court of Appeals,[5] Petitioner asserts that evidence of "only one" incident of past physical abuse is not sufficient enough evidence for the trial court to making a determination that an "emergency" existed. Petition at pp. 28-29. In support of her allegation, Petitioner cites *Schoeberlein* for the proposition that allegations of past conduct do not satisfy the PKPA's definition of emergency. *See id.* However, unlike the present case which involves not only documented, past physical abuse against the child, but also recent, undisputed threats of further mistreatment, *Schoeberlein* involved only *past* physical abuse.

Likewise, the other cases cited by Petitioner in support of her proposition that there simply isn't enough evidence of abuse in this case to constitute an "emergency" also fall short of that

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[5] *See* Brief of Appellant Joan Bacon (Nov. 24, 1993) *filed in In Re the Custody of: T.B.*, No. C7-93-2263 (Minn. Ct. App.) at pp. 10-11.

proposition. Rather, those cases, including *Curtis v. Curtis*, 789 P.2d 717 (Utah Ct. App. 1990), *Lundell v. Clawson*, 697 S.W.2d 836 (Tex. Ct. App. 1985), and *Marks v. Marks*, 315 S.E.2d 158 (S.C. Ct. App. 1984), all stand for the proposition that it is well within the trial court's discretion to decide what does and does not constitute abuse so as to constitute an emergency.

As a basis for exercising "emergency" jurisdiction, the PKPA provides that such jurisdiction exists if the child has been "subjected to ***or threatened*** with mistreatment or abuse." 28 U.S.C. § 1738A(c)(2)(C)(ii) (emphasis added), PA at 26a. The PKPA is silent as to how a court may come to learn of such a threat. Petitioner asserts that statements made by a child's attorney on the child's behalf may be self-serving and, thus, should be excluded from consideration by the trial court. *See* Petition at p. 29. Petitioner apparently urges this Court to adopt a new test that only sworn or written allegations of such threats should be considered by a trial court. *See id.* This test, however, is not only unworkable but, also, implausible, especially given the fact that many victims of child abuse are nonverbal infants who can "speak" *only* through their attorneys.

The fact that the allegation of the threat in the present case was uttered by T.B's attorney, as opposed to by T.B. herself, was considered by the trial court and dismissed. Specifically, the trial court stated that T.B.'s attorney could speak for her (Tr. of Aug. 18, 1993, RA at 12a), and further stated that "I suspect that what you folks are telling me is what Talassa is going to tell me, too. I will accept that what you say is true, that she doesn't want to go back to New York and she wants to stay here in the State of Minnesota, and that she is afraid of Thomas Williams." *Id.* at 10a. T.B.'s allegation that she was threatened with further mistreatment is undisputed. *See supra* at p. 4.

In the present case, the trial court found that T.B. "alleged that she had been physically abused in the past and was threatened with further mistreatment unless 'she shaped up.'" Order of Nov. 1, 1993, PA at 7a. The trial court further found that that incident

of past physical abuse, coupled with the recent specific threat of further mistreatment, created a "possible emergency situation" with "respect to the minor child's safety and protection." *Id.* The trial court's factual determinations regarding the issue of abuse were within its broad discretion. Such factual determinations should not be reversed unless clearly erroneous.

Using the "clearly erroneous" standard, the Minnesota Court of Appeals reviewed the trial court's findings regarding the issue of abuse, as well as its ultimate decision to exercise emergency jurisdiction. *See* Ct. App. Order, PA at 3a. The court of appeals found that "[a]lthough alleged incidents of physical injury are not recent, *the allegation of a recent specific threat supports the claim of emergency jurisdiction.*" *Id.* (emphasis added). The court also found that "the record supports a finding that it is necessary to protect [T.B.] from abuse." *Id.* The court of appeals ruled that the trial court's findings of fact were not clearly erroneous, and concluded that trial court "did not err in exercising emergency jurisdiction." *Id.*

The decision of the court of appeals was not in error. Further, the decision of the Minnesota Court of Appeals does not depart from the accepted and usual course of judicial proceedings, nor does it sanction such a departure by the trial court, as to call for an exercise of this Court's power of supervision.

III.

THE DECISION OF THE MINNESOTA COURT OF APPEALS IS CONSISTENT WITH THE DECISIONS OF OTHER STATE COURTS OF LAST RESORT ON THE SAME ISSUE

As Petitioner correctly asserts (*see* Petition at p. 20), the PKPA mandates that "[b]efore a child custody determination is made, reasonable notice and opportunity to be heard shall be given to the contestants." 28 U.S.C. § 1738A(e). The phrase

"custody determination" is unambiguously defined under the PKPA as:

> a judgment, decree, or *other order of a court* providing for the custody or visitation of a child, and includes permanent and temporary orders, and initial orders and modifications.

Id. at § 1738A(b)(3) (emphasis added). It is apparent from the above definition that "reasonable notice" must be given before a State makes ANY custody determination, regardless of whether such determination is made *ex parte* or not.

The PKPA also provides that a State must accord full faith and credit to the custody determination of any other State ONLY WHEN such custody determination is "made consistently with" the provisions of the PKPA. *Id.* at § 1738A(a). It is clear from the plain language of the PKPA that if "reasonable notice" is not given to the contestants prior to making a custody determination, the State's custody determination is not consistent with the terms of the PKPA. Where a State's custody determination is NOT consistent with the PKPA, other States need not accord it full faith and credit.

In the present case, Petitioner argues that because the PKPA "does not impose any particular service requirements," Petitioner Bacon was not required to provide Respondent Wilson with reasonable notice prior to the New York Family Court issuing its Temporary Custody Order on August 13, 1993. *See* Petition at 20. Rather, as discussed earlier (*see supra* at p. 7), Petitioner asserts throughout her Petition that it was sufficient for Respondent Wilson to have received notice of the August 25th custody hearing. Petitioner fails to recognize, however, that while the PKPA may not expressly define any service requirements, it mandates that "reasonable notice and opportunity to be heard" must be given with respect to ANY such custody hearing. Petitioner's argument that Respondent Wilson was not entitled to

reasonable notice regarding the August 13th hearing flies in the face of the PKPA's due process requirements.

The Minnesota Court of Appeals upheld the trial court's determination that the New York Temporary Custody Order was not made consistent with the provisions of the PKPA and, therefore, that Minnesota need not accord it full faith and credit. As such, the court of appeals upheld the due process requirements of the PKPA. In so holding, the decision of the Minnesota Court of Appeals was consistent with the rulings of this Court and of other State courts of last resort in regard to the same issue.

CONCLUSIONS AND PRAYER

This case presents no "special and important" issue appropriate for the Court's exercise of its jurisdiction. It is a custody dispute involving a nearly sixteen-year-old young woman, her mother, and her grandmother. Likewise, this case presents no novel question of law. Rather, it merely sets forth Petitioner's refusal to acknowledge the factual determinations made by the trial court in its broad discretion.

Respondents pray that the Court deny the Petition for Writ of Certiorari because the case presents no issue appropriate for the Court's review and because the lower courts' holdings were not in error.

Respectfully submitted,

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Pro Se

STATE OF MINNESOTA DISTRICT COURT

COUNTY OF DAKOTA FIRST JUDICIAL DISTRICT

In the Matter of the Welfare of:

Talassa Bacon-Williams,

Child.

[TRANSCRIPT OF PROCEEDINGS]

The above-entitled matter came on for hearing before the Honorable William F. Thuet, one of the judges of the above-named court, at the Dakota County Judicial Center, Hastings, Minnesota, on the 18th day of August, 1993.

APPEARANCES:

JEFFREY L. ORREN, Attorney for Maternal Aunt and Grandmother.

JUDITH C. NORD, Attorney for Child.

KATHRYN PETERSON, Assistant Dakota County Attorney.

JACKIE ARNOLD, Dakota County Community Service Department.

TALASSA BACON-WILLIAMS, child.

JOAN BACON, Child's Mother.

THOMAS J. WILLIAMS, Significant other to Child's Mother.

AMANDA BROWN, Maternal Aunt.

[2]EILEEN WILSON, Maternal Grandmother.

WHEREUPON, the following proceedings were duly had of record:

THE COURT: This is the matter of the welfare of Talassa Bacon-Williams. This matter is before the Court pursuant to my Court Order dated yesterday afternoon. Perhaps we could go down the line and identify everybody.

* * * * *

[3]THE COURT: This matter was brought to my attention, and I will lay the background out on the record with what I know about this case and how it comes before me now.

Yesterday afternoon I received a telephone call from Thomas Williams who indicated that he was the father of Talassa-Bacon Williams. He indicated that he and the child's mother lived together in Brooklyn, New York. I recall they have five children and that Talassa is one of those five children. That this past summer, [4] as I recall, four of the children were sent here to Minnesota to visit with the maternal grandmother, Eileen Wilson -- three of the children. Well, I am not sure --

MS. NORD: The maternal aunt.

THE COURT: Well, I was told that, as I recall, they were to visit with the grandmother. In any event, the children were sent here to Minnesota, and as I recall it was four children sent to Minnesota for summer visitation. That three of the children were returned to Brooklyn, New York and the fourth child, Talassa, did not return. That Ms. Bacon, Mr. Williams or the two of them, then called the grandmother in Minnesota, as I remember, and told -- instructed her to place Talassa on the next available flight to New York and they refused to do this.

That Mr. Williams and Ms. Bacon then drove here to the State of Minnesota to obtain custody of the child. That the child

could not be located in the State of Minnesota. That they then returned back to Brooklyn and they obtained a Court Order from a Superior Court Judge or Supreme Court in Brooklyn, awarding them custody of the child. That they then drove back here to the State of Minnesota with the New York Court Order and went to the St. Paul Police Department and requested their assistance in obtaining the custody of the child [5] who at that point they believe was living with Eileen Wilson, the maternal grandmother. That the St. Paul Police apparently went to the home and she was not at the home. It was determined she was living with her aunt, Amanda Brown.

Amanda Brown lives in West St. Paul. They then went to the West St. Paul Police Department with the New York Court Order and the West St. Paul Police Department refused to pick the child up without a Minnesota Court Order.

That is the basic background that was relayed to me yesterday afternoon. I had not seen the New York Court Order. I had not met personally with Mr. Williams, and I did communicated with Mr. Williams. I had no reason to believe that what he was telling me was not true.

Based on those representations, and let me backtrack. I believe I asked Mr. Williams at that time if there were any outstanding Court Orders from any Court, be it Minnesota, New York or elsewhere, that awarded custody of Talassa to anyone other than themselves and he said no. Based on that representation I attempted to contact the County Attorney and I was not successful so I issued an Order which awarded custody of the child to the Dakota County Community Services [6] Department for placement last night. I directed the West St. Paul Police Department to assist in obtaining custody of the child and I scheduled the matter for a hearing at 1:30 today.

I think that basically brings us up to why wer are here today. This was done on my own motion. There has no Petition filed with the Court so I want to make a decision today on where this child should reside.

* * * * *

[9]MS. NORD: Your Honor, Talassa has lived with her grandmother, Eileen Wilson, since approximately the fourth grade. She is currently fourteen years of age. From the fourth grade up until about the seventh or eighth grade, sixth grade, she lived with her grandmother in Minnesota. She then lived with her mother back in New York for three years and came to Minnesota for a visit, she lived with her grandmother, which is where she has been for the last two weeks.

When it came time for her to go back she told her grandmother that she did not want to go back because of the physical abuse that has occurred in her home. She has told me that her mother is not married to Mr. Williams, to Thomas Williams, but that he has somehow adopted her. That is not her father and it is not her stepfather to her belief. She has discussed with me in the last fifteen minutes that I have talked with her, whic is right before court, that he has been physically abusive of her and that she is scared for her own **[10]** well-being to go back living with him. She has asked me to ask the Court to let her continue living with her grandmother until some type of custody evaluation or reunification plan can be put into effect. So, I am asking the Court for her to be allowed to continue living with her grandmother until such time as any allegation of abuse can be checked out and a custody evaluation or anything else that the Court deems appropriate can happen.

She has explained to me at a couple of occasions where she was choked and her mother brought her to the hospital. Where she was physically slapped and her mother brought her to the hospital. So, the mother is completely aware of physical abuse against this child, and I don't know if it is against all of the children or just Talassa.

* * * * *

[11]MS. NORD: Immediately prior to her coming to Minnesota to visit Talassa told me she was again abused, was threatened that if she didn't behave or act in the way she was told to act that she would again be hit. For that reason she is asking to be allowed to stay with her grandmother in Minnesota.

MR. ORREN: Your Honor, I might point out about the New York investigation. From my information, which comes from a discussion that I had with the child's mother, the investigation did find that there was no abuse, but the child who was then I believe eleven years of ago, partially recanted her story and told the worker that she might have been responsible for it. I point out to the Court that this is just so typical of a reaction of an abused victim, to blame [12] themselves for the abuse.

* * * * *

[13]MR. ORREN: Your Honor, I would attack that Order on the grounds that it recites, I believe in the first paragraph if my memory is correct, the respondent was present and before the Court. Since respondent was not out in New York, if there was someone called respondent present and before the Court it was a fraud on that Court. I don't know why that line would be there.

THE COURT: Who was there, ma'am, at that Court hearing?

JOAN BACON: I was there.

* * * * *

[14]JOAN BACON: He was also served with a Petition to –

MR. ORREN: That same New York Petition you have was handed to me, which is not proper service on Ms. Wilson.

JOAN BACON: Well, you represent her.

THE COURT: Was your client served with the Petition?

MR. ORREN: No, she wasn't, Your Honor. I was, to me, but that is –

THE COURT: When?

MR. ORREN: The day before yesterday, but that is not –

THE COURT: Well, this is an Order.

MR. ORREN: There was a Petition that went along with it also.

THOMAS WILLIAMS: A copy of the Order is with the Petition.

MR. ORREN: But, it was never served on Ms. Wilson.

THOMAS WILLIAMS: It was served on her attorney.

* * * * *

[16]MR. ORREN: There was no kidnapping involved here, Your Honor. I don't know where you come up with the term even. The child was here in the State and expressed her desire to stay. There was no legal authority ever, a police officer never came and asked Ms. Wilson where the child was and I have instructed both of my clients never to lie to a police officer if that is what would occur. There was no secreting the child, Your Honor. If you are, the way you feel is to send her back to New York then I would ask you to put her in foster care for another

day so I can bring a CHIPS proceeding myself in the proper county, Ramsey –

* * * * *

[21]MR. ORREN: Yes. I refer you to 260.1, Subdivision 2 – I am sorry, I might ask you to give us two days to file those papers. There is no allegation of any kind that the child ever suffered any abuse here in Minnesota. There are allegations on the table, and it has been admitted by the mother, that the child did suffer at least some kind of abuse, what a Minnesota Court would find to be domestic child abuse.

THE COURT: Three years ago.

MS. NORD: And immediately prior to coming to Minnesota she was threatened again.

MR. ORREN: There is no allegation [22] that she suffered any kind of abuse here in Minnesota and I just don't see how the Court could send her back to New York where there are outstanding allegations of abuse.

THE COURT: There is nothing outstanding, it has been investigated as far as I am told and it has been ended. There is no investigation.

MR. ORREN: There has been no investigation of the recent claims from three weeks ago.

THE COURT: What are the recent claims?

MR. ORREN: That she was threatened by Mr. Williams.

THE COURT: With what?

MS. NORD: Physical abuse if she didn't --

THE COURT: Didn't what?

MR. ORREN: I would ask the Court to meet with the child and determine this for yourself.

MS. NORD: He told her that if she didn't shape up, be prepared to get hurt again before the end of summer. If that is not a threat, I don't know what is.

* * * * *

[25]MR. ORREN: The child's name is not Bacon-Williams. It is not.

MS. NORD: It is just Bacon, Talassa Bacon.

MR. ORREN: This is an outright fraud on this Court in an attempt --

THOMAS WILLIAMS: Your Honor, if he would like us to produce a copy of her birth certificate --

THE COURT: Go ahead, sir.

THOMAS WILLIAMS: If he would like us to produce a copy of her birth certificate from New York that states her last name is Bacon-Williams, we can.

MS. NORD: Has there been a paternity action?

THOMAS WILLIAMS: There is one right now.

MS. NORD: Your Honor, there is an action pending right now, how could her last name be Williams now?

THOMAS WILLIAMS: It was a birth [26] certificate correction.

THE COURT: Explain that, sir.

THOMAS WILLIAMS: There was no father listed on the birth certificate. We obtained documents from the Department of Health that went before a Notary. Filled out the forms and had them notarized. We sent them into the Department. The birth certificate came back corrected. It was not until the 10th. of this month, 10th of August when this whole situation arose that we found out that the Petition for Paternity had to be established. At that time we did that and it is pending right now. Otherwise it would have been done before if we knew that it legally had to be done.

MS. NORD: Your Honor, this man is the father of three of Talassa's brothers and sisters but he is not the biological father or the stepfather at this point of Talassa or her older sister.

THOMAS WILLIAMS: Your Honor, the question of paternity at this point is not the question before the Court. If counsel for the child can tell who the mother of the child had relations with to have this child, I don't think she is an expert, she was not there.

THE COURT: What is the child's name on the birth certificate?

THOMAS WILLIAMS: Talassa [27] Bacon-Williams.

MR. ORREN: You think they would inform the child of that fact.

* * * * *

[28]MS. NORD: Your Honor, Talassa just told me that her first passport did not have the name Williams on it, her second one does. * * *

* * * * *

[30]MS. NORD: Your Honor, Talassa did call and leave a message on their answering machine that she would not be returning on that plane but they had already left for the airport or whatever by the time she left hat message telling them that she wasn't coming back. So, there was a phone call.

* * * * *

[33]MS. NORD: Your Honor, Talassa just [34] told me that if you would like to speak with her in chambers alone, if you think that is appropriate she is more than willing to do that so she can explain to you more about why she does not want to live with her mother at this point in time.

THE COURT: Is there anything you people want to say?

MR. ORREN: Your Honor, I would join in the suggestion that you speak with the child in chambers. I think it is just --

THE COURT: Well, quite frankly I don't think that is going to sway my opinion one way or the other. I suspect that what you folks are telling me is what Talassa is going to tell me, too. I will accept that what you say is true, that she is going to say that she doesn't want to go back to New York and she wants to stay here in the State of Minnesota, and that she is afraid of Thomas Williams. I assume that is what she is going to tell me.

* * * * *

[36]MR. ORREN: Your Honor, but I am sure you have been involved in cases where the abused victim has recanted the allegations against the perpetrator and then has been back in court again with subsequent abuses. This is a common pattern that befalls abuse victims, whether they be battered women or children that have been victims of sexual abuse or any kind of abuse. They blame themselves, they recant and get abused again.

THE COURT: What he says is true. That is not unusual.

* * * * *

[39]MS. NORD: Not necessarily, because the child knew where her mom was at and could have contacted her and the child did not want to do that. [40]The mom also knew that she was either at her aunt's or her grandmother. Talassa told her grandmother and her aunt that she did not want to talk with her mother because she was scared she was going to be forced to go back to New York. That is not kidnapping and that is not hiding the child away. That was the child's choice, Your Honor.

* * * * *

[43]MR. ORREN: I am not saying substantiated abuse, I am saying a verifiable incident occurred that would be considered domestic abuse, in this court at least. The child was hit by a nonrelative and had to be hospitalized. It is admitted.

THE COURT: Is that whet happened, ma'am?

JOAN BACON: Excuse me?

THE COURT: Are you admitting that Thomas hit your child?

JOAN BACON: Yes, and I took her to the hospital. She was not hospitalized for -- she was held -- people from the Child Abuse Office came and spoke to Talassa by herself, at the hospital.

MS. NORD: Your Honor, she just admitted that Thomas hit Talassa.

* * * * *

[56]THE COURT: The record should reflect that the parties have had discussions for the last, a little over an hour and a half or so. I just had an opportunity to discuss this with the attorney for the child, because I am not going to speak to the child directly and I think that Ms. Nord is the mouthpiece for the child so to speak.

* * * * *

[59]But, there is obviously some ties between Talassa and her grandmother here in view of the fact that her grandmother raised her for a number of years, and there are some ties between Talassa and her aunt here and her cousin who is here. You know, there is valid reasons, you know, for both sides I guess. She also has four brothers and sisters back in New York. I think that it is important that whatever -- whatever I do here, that she maintain ties with her family members, be it her grandmother and aunt and cousins here in Minnesota if she is going back to New York, or if she stays here in Minnesota that she maintains contact with her siblings and mother in New York. I guess I need time to digest all of this and do a little [60] research on the law. So far I have been doing this kind of on my own motion in the effort to save

everybody some money and grief. I haven't properly researched the law and I guess I need some time so I would like to do this. I will issue a decision and I would hope to have that decision out, I am going to say by noon tomorrow. I say by noon tomorrow because I don't know when my court reporter will have an opportunity to type my Order. Hopefully we will have it out by nine o'clock tomorrow morning. I want to think about this case, at least for the next couple of hours. I will make a decision on what is going to happen tonight and have it out tomorrow morning.

* * * * *

STATE OF MINNESOTA DISTRICT COURT

COUNTY OF DAKOTA FIRST JUDICIAL DISTRICT

In Re the custody of:	)	
	)	
Talassa Bacon-Williams,	)	
	)	Court File No. FX-93-9068
	)	Appellate File C7-93-9068
Eileen Wilson,	)	
Petitioner,	)	
	)	TRANSCRIPT OF
and	)	PROCEEDINGS
Joan Bacon,	)	(Motions)
Respondent.	)	

The above-entitled matter came duly on for hearing before the Honorable Richard G. Spicer, one of the judges of the above-named Court, on the First day of November, 1993, at the Dakota County Judicial Center, City of Hastings, State of Minnesota.

APPEARANCES:

JEFFREY L. ORREN, Attorney at Law, 400 Exchange Building, 26 East Exchange Street, St. Paul, Minnesota 55101-2264, appeared on behalf of Petitioner.

CAROL A. PETERSON, Attorney at Law, Pillsbury Center South, 220 South Sixth Street, Minneapolis, Minnesota 55402, appeared on behalf of the Respondent.

JUDITH C. NORD, Attorney at Law, Inver Grove Heights Professional Building, 2125 Upper 55th Street East, Inver Grove Heights, Minnesota 55077, appeared as the attorney for said child in this matter.

* * * * *

[16]MS. PETERSON: *** I wanted to speak a little bit about the res judicata claim. Your Honor, this petition was filed after the order was issued on August 19.

[17]THE COURT: You told him to file it.

MS. PETERSON: I told him to file it, but there was no opportunity to challenge the jurisdiction of this court. The jurisdiction over that petition.

THE COURT: Well, now again, let me be the devil's advocate. Isn't that exactly what was argued on August 18; whether or not there was jurisdiction to file the petition?

MS. PETERSON: I don't think so. I don't think so, Your Honor. The transcript is full of Judge Thuet saying, "New York is where this should be. I don't have jurisdiction here." Repeatedly he says that and then this order comes out and says file a petition.

THE COURT: That's kind of Judge Thuet. Sometimes he'll say things but then when he considers them, he'll take a look at the law and see what applies.

It seems to me for whatever it is worth the issue at the time was did they have the right to file a petition, and I guess he felt they had the right to file a petition. He never really addressed whether or not there was appropriate jurisdiction, I guess.

MS. PETERSON: That's right. My client went in thinking she had an order she was going to enforce. So it was a little bit of a surprise.

[18]As to Schmidt, Your Honor, it is clear in that case at 105 that a court is to make written findings and that that is strongly suggested by the Supreme Court in this case. Although the Court went on in that particular case and held on other grounds that the jurisdiction -- exercise of jurisdiction was proper, it says in very strong language on page 105 that written findings for jurisdiction are required.

THE COURT: Again, I don't think he decided the jurisdiction issue because there were no written findings, so I don't think it's res judicata. I think that's for me to determine today, and I agree with you. If I make that determination, I would have to make written findings to comply with the two acts involved. Jeffrey, you raised your finger there.

MR. ORREN: I would say that the credit to be given to the New York decision was decided and if that was disagreed with, it should have been appealed. That was -- The last paragraph of the memorandum was, really, the basis for Judge Thuet's decision, and it's amazing how closely the words Judge Thuet used mirrored the words that were cited in Joel versus Karen M. case.

THE COURT: That's true. It's interesting. He does use that wording.

* * * * * *

STATE OF MINNESOTA DISTRICT COURT

COUNTY OF DAKOTA FIRST JUDICIAL DISTRICT

In the matter of the welfare of:

TALASSA BACON-WILLIAMS, **ORDER**

Child.

TO: West Saint Paul Police Department; Dakota County Community Services Department; Thomas J. Williams and Joan Bacon, parents of the child above named; Amanda Brown, maternal aunt; and Eileen Wilson, maternal grandmother.

It appearing to the Court that the child above named is in need of immediate protection or services, custody of the child above named is temporarily awarded to the Dakota County Community Services Department for placement in a foster or group home pending a hearing before this Court on Wednesday, August 18, 1993, at 1:30 p.m., at the Dakota County Judicial Center, Hastings. The West Saint Paul Police Department shall assist in obtaining custody of the child who is presently located at the home of Amanda Brown, 1061 Hall Avenue, West Saint Paul.

DATED: This 17th day of August, 1993.

BY THE COURT

/S/ WILLIAM F. THUET
WILLIAM F. THUET
JUDGE

Filed: August 19, 1993.

STATE OF MINNESOTA DISTRICT COURT

COUNTY OF DAKOTA FIRST JUDICIAL DISTRICT

In Re the Welfare of:

Talassa Bacon-Williams, NOTICE OF FILING:

Child. ORDER

TO: Joan Bacon, mother of the Child, and her attorney, wherever they may be found.

PLEASE TAKE NOTICE THAT, the attached Order was filed in the office of the Court Administrator of Dakota County on the 19th day of August, 1993.

Dated: August 19, 1993

/S/ JEFFREY L. ORREN

By: Jeffrey L. Orren
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